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Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

1437th Meeting
Thursday, 14 July 1994, 10 a.m.
New York

Acting Chairman: Mr. Remirez de Estenoz Barciela . . . . . (Cuba)

The meeting was called to order at 10.25 a.m.

Question of East Timor (A/AC.109/1187) *(continued)*

The Chairman: I call on the representative of Portugal.

Mr. Quartin Santos (Portugal): Allow me to begin by saluting you, Sir, and all the other members of this Special Committee, and by recalling the significant contribution that this body has made over the last three decades to the successful role played by the United Nations in bringing about self-determination and independence for the overwhelming majority of the colonial countries and peoples throughout the world.

Even now, when that task seems near completion, it is important to underline that the principles and rules which have guided it are still valid and are applicable to the few remaining Non-Self-Governing Territories. The United Nations cannot, in particular, turn a blind eye to those cases in which the disregard for those rules and principles has led to a most regrettable situation of repression and human rights abuses.

Portugal, in its capacity of administering Power of the Non-Self-Governing Territory of East Timor, has as far as possible always cooperated with the Special Committee, despite the obvious limitations stemming from the fact that it has hitherto been de facto prevented from effectively exercising the responsibilities incumbent upon it.

The task of the Special Committee regarding the question of East Timor is underlined, in particular, by operative paragraph 2 of General Assembly resolution 37/30, in which the Committee is requested:

> "to keep the situation in the Territory under active consideration and to render all assistance to the Secretary-General with a view to facilitating the implementation of the present resolution".

Last year the Committee's meeting devoted to the question of East Timor took place in the aftermath of the adoption by the United Nations Commission on Human Rights of its resolution 1993/97 on the situation of human rights in East Timor and of the sentencing of the East Timorese leader Xanana Gusmão to life imprisonment by an Indonesian court in Dili, charged with "rebellion" and "separatism" for his opposition to Indonesia's illegal takeover of his country. On the other hand, under the auspices of the Secretary-General, the Ministers of Foreign Affairs of Portugal and Indonesia had held, in Rome, their second meeting. Political talks were thus proceeding against a background of continuing human rights concerns and unabated repression.

Portugal fully agrees with the Secretary-General's assertion, contained in paragraph 5 of his last progress report (A/48/418) to the General Assembly, that:

> "Equally important and intrinsically linked to the peace process is the human rights situation in East Timor. The improvement of the conditions in East Timor is *sine qua non* to progress in the talks".

In the light of this remark, it is time, precisely one year after our last meeting on this issue, on the one hand to

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make an assessment of the political process in motion concerning this issue, and on the other hand, to determine how things have evolved in East Timor, especially in the human rights field.

Shortly after last year's meeting, on 20 August, the Subcommission for the Prevention of Discrimination and Protection of Minorities adopted resolution 1993/12, in which the Indonesian authorities were urged to implement fully the 1992 and 1993 decisions of the Commission. In paragraph 1 of its resolution 1993/12, Subcommittee also expressed its

> "deepest concern, at reports of continuing violations of human rights in East Timor". *(E/CN.4/1994/2, p. 41)*

The Subcommittee remained seized of the issue and will consider it further at its next session, due to take place during August.

In the following month the Ministers of Foreign Affairs of Portugal and Indonesia met in New York with the Secretary-General for their third round of talks, aimed at achieving a just, comprehensive and internationally acceptable settlement of the question of East Timor. The importance of the promotion of respect for human rights, in all their indivisible aspects, and of fundamental freedoms in East Timor was recognized, as well as that of the implementation of the provisions adopted by the Commission on Human Rights, by consensus, in March 1992. Special relevance was attached to the furthering of access to East Timor by the United Nations and humanitarian and human rights organizations. Also contemplated were the improvement of the atmosphere of dialogue between the parties; contacts to be carried out by the Secretary-General with whomever he deemed useful to assist in the solution of the question; and the promotion of a balanced exchange of visits by journalists and personalities from both countries.

The relevance of the human rights issues in this first package of confidence-building measures designed to start paving the way to address the substance of the question is quite evident. It is important to note that Indonesia has thereby expressly reiterated the commitments it made before the Commission on Human Rights to take concrete steps to improve the situation prevailing in East Timor.

The Commission on Human Rights met again in late January 1994. It took up the question of East Timor, having before it a report of the Secretary-General and reports emanating from its Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as reports by its Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances. Paragraph 13 of the Secretariat's working paper, document A/AC.109/1187, describes the main provisions contained in the consensus statement adopted by the Commission on 9 March.

Besides reiterating its concern on the continuing allegations of human rights violations in East Timor, the statement dedicates a good number of its points to calling again on Indonesia to carry out those provisions which had been adopted in the 1992 and 1993 Commission on Human Rights decisions regarding the 12 November 1991 shooting, in which scores of East Timorese civilians were gunned down by the Indonesian military. This implied that two years later the Commission considered that most of those provisions were still to be implemented, in spite of all the pledges made by the Indonesian authorities.

On the positive side, it should be underlined that it was possible to reach a consensus this time, as in 1992; that the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has been invited to visit the Territory - the visit has just taken place and we are looking forward to the report - and that Indonesia committed itself also to address invitations to other relevant thematic Special Rapporteurs and to Working Groups of the Commission to visit East Timor when necessary for the fulfilment of their duties.

The fourth round of talks under the Secretary-General's auspices took place in Geneva on 6 May. As a general comment on its outcome, we should point out, first, that the parties concentrated their efforts on consolidating and expanding the confidence-building measures, the need for which had previously been recognized. Special importance, in this context, was again attached to the human rights problem. The final communiqué contemplated the main points which had been the object of the decisions of the Commission on Human Rights. Indonesia has, therefore, reinforced the commitments already made regarding the improvement of the human rights situation prevailing in East Timor.

Special attention was also devoted in the Geneva meeting to the engagement of the East Timorese in this process of dialogue. Their interests, as they are the colonial people concerned in this question, are considered paramount by the Charter. The Ministers conveyed their appreciation to the Secretary-General in particular for the

dispatch of a mission, in January 1994, that had a number of contacts in Lisbon, Jakarta, Dili and Sidney, many of them with East Timorese leaders and personalities. Similar consultations and contacts will take place whenever the Secretary-General deems it necessary.

But what may be still more important is the initiative taken by the Secretary-General to explore appropriate efforts to facilitate an all-inclusive East Timorese dialogue, to be encouraged as an important contribution to the ongoing talks under his auspices. The Ministers of Portugal and Indonesia also stated their readiness to meet with, respectively, leading East Timorese supporters and opponents of integration.

Potentially significant steps forward were thus made towards involving the East Timorese in the search for a settlement of this question, in accordance with the principles of the Charter and the relevant United Nations resolutions. It is now imperative that the conditions be established that will allow the Secretary-General to act effectively to promote an all-inclusive dialogue in a credible and transparent manner; a genuine and useful contribution to his endeavours can thus be made.

To make a balanced assessment of how the question of East Timor has evolved during these last 12 months, it is now necessary to compare words with the reality in order to see whether or not the latter was positively influenced by the decisions adopted and the commitments undertaken.

I regret to begin this task by saying that my delegation is quite disappointed by the lack of substantive and clear progress in redressing the human rights situation in East Timor. The positive developments recorded have been too limited in number and in scope and are therefore undoubtedly insufficient.

The Indonesian authorities have failed so far to provide sufficient information about the fate and identity of those killed and of the overwhelming majority of those still unaccounted for after the Santa Cruz killings. Bishop Belo, the apostolic administrator of Dili, said in an interview on 14 September 1993 that people involved in the 12 November demonstration were still seeking refuge in villages, fearing retribution from the military authorities, and that many families were still waiting to receive their children's bodies for burial. Disturbing accusations were recently made about the fate that a number of wounded people taken to the military hospital in Dili after the shooting would have met there. It is therefore imperative that all the circumstances surrounding the matter be duly investigated.

The invitation addressed to the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit East Timor is welcome and it is expected that the recent visit he has paid to the territory will contribute to shedding light on this most horrifying episode. The cooperation that the Indonesian Government has extended to the United Nations Working Group on Enforced or Involuntary Disappearances is a positive sign, but has unfortunately failed to bear significant fruits.

The military and police personnel responsible for the shameful episode of the Santa Cruz cemetery have not yet been brought to justice, and the absurd discrepancy between the sentencing of soldiers and that of peaceful civilian demonstrators has not been redressed. Those convicted for nonviolent activities have yet to be released. In addition, five young East Timorese who demonstrated peacefully in April this year in Dili, on the occasion of a visit made by foreign journalists, were arrested and recently sentenced: two of them to three years in prison and the other three to 20 months. Amnesty International made an appeal last May on behalf of 11 East Timorese recently detained for non-violent political activities.

While the Portuguese Government reacted positively to the authorization to leave Indonesia granted to the seven young East Timorese who had sought diplomatic asylum in June 1993 in the Swedish and Finnish Embassies in Jakarta - considering it as a contribution to creating a more favourable atmosphere for our dialogue - we must now express our dismay at these repressive actions, whose negative impact on the dialogue must be duly put on record.

The Portuguese delegation had occasion last year to refer at length to the imprisonment and trial of the East Timorese leader Xanana Gusmão. I would like to add that we do not believe that the reduction of his life sentence to 20 years addresses the substantive issues at stake in this whole affair; it appears instead to be a measure aimed at appeasing harsh international criticism of Mr. Gusmão's trial. Mr. Gusmão has lately denounced the conditions under which he was held in prison - forced to choose a lawyer against his will and subjected to a trial that failed to meet internationally accepted standards of fairness. Lawyers from the Indonesian Legal Aid Institute have been prevented from meeting him. Visits by the International Committee of the Red Cross, although they have been resumed, were banned for a period of time. His wife and

children were finally allowed to visit him only a few days ago.

My delegation views favourably the increased access to East Timor by the United Nations, subsidiary bodies of the Commission on Human Rights, journalists and parliamentarians. The Ministers in Geneva agreed that such access and visits should be continued and further expanded.

Nevertheless, while recognizing that some progress was made in this area, we regret that human rights organizations such as Amnesty International and Asia Watch have still not been able to visit the Territory, and that those visits which do take place continue, according to most accounts, to be tightly monitored and controlled by the authorities. The population is strongly dissuaded from speaking to foreign visitors. Spontaneous contact with local people is rendered extremely difficult. In one particular case - that of the visit made last September by members of the Swedish Parliament - students with a reputation for dissent were either arrested before the arrival of the delegation or sent out of Dili to prevent any contact or demonstrations.

In spite of some encouraging moves and the pledges made by Indonesia concerning the improvement of the human rights situation in East Timor, that situation appears to us to remain extremely worrisome and worthy of close scrutiny by the international community and by relevant United Nations bodies, including this Special Committee.

Following the visit made to the Territory last April by 26 foreign correspondents based in Jakarta, a number of articles and reports were released by some of the leading international media, which, with practically no exception, confirm that assertion.

It is, for example, extremely significant that an integration supporter like Mr. Florentino Sarmento, a member of the Indonesian Golkar Party and head of the leading non-governmental development agency in the territory, has said, as quoted by *The Sunday Telegraph* of 17 April 1994:

> "... this is not an integration; this is a pure military occupation. East Timor is a conquered territory, living in a climate of threat, fear and war."

Announcements concerning the reduction of Indonesian armed forces stationed in East Timor have been met with scepticism by military attachés in Jakarta who visited Dili in November 1993. The United States Department of State Human Rights Report for 1993 says:

> "In East Timor ... largely cosmetic changes in the force structure resulted in minimal reductions in troop presence ..."

Mr. Sarmento is also quoted by *France-Presses* on 18 February 1994 as having said:

> "It is hard to understand the purpose served by the presence of so many battalions when what we need is an internationally acceptable political solution."

In a research paper released in August last year, Professor George Aditjondro, a well-known Indonesian scholar, elaborates on the impact of the official transmigration programme and of the "flood of spontaneous migration from Indonesia" - to East Timor - on the monopolistic control of almost the entire economy of East Timor by an Indonesian Group, PT Batara Indra, and on the negative economic, social and cultural impact of the removal of the population from the interior of the country to "guided villages", mainly for military purposes. He also speaks of the fostering of a "culture of violence" and of "intimidation" as a consequence of the war in East Timor.

Monsignor Belo does not report very encouraging signs either. In one interview granted on 23 September 1993, he said the East Timorese live as if they were in a prison, under "permanent military pressure through vigilance". He added that people live in fear,

> "afraid of retaliation of the military authorities, of interrogations, of being tortured and beaten".

More recently, to the French newspaper *La Croix* on 29 May 1994, he said:

(spoke in French)

> "At the human level, nothing can be settled until the Timorese are able to make a free choice about their future. Let the Timorese express themselves and then we'll see."

(spoke in English)

In the final communiqué of the 6 May meeting in Geneva, it is said that the Ministers of Portugal and Indonesia reacted positively to the Secretary-General's appeal to exercise restraint on the issue of East Timor in

the interest of maintaining a favourable atmosphere for further progress towards a comprehensive settlement of the question.

On our part, we stand ready to continue to live up to our commitments. But restraint cannot be understood as a one-way street or a unilateral obligation of silence in the face of the persistence of unacceptable situations or abuses. Words must be followed by deeds, lest we be tempted to conclude that we are involved in an exercise aimed chiefly at buying time and at defusing growing international criticism over this issue. We deem it indispensable therefore that the constructive spirit that presided over the adoption of the last Commission on Human Rights consensus statement be followed by effective and unequivocal action on the part of the Indonesian authorities to redress the situation in East Timor.

In spite of the wide gap existing between the positions of Portugal and Indonesia on the substance of the question - that is, the completion of the decolonization process of East Timor - we firmly believe that there can be no substitute for a peaceful and negotiated settlement, with full respect, first and foremost, for the legitimate rights of its people in accordance with the principles of the Charter and of international law.

The passage of time and the unfolding of events in the Territory, especially during these last years, have clearly shown that there can be no lasting and durable settlement to these problems based on repression or on the use of force against the East Timorese, but that it will have instead to be based on respect for their right to decide, in a free and valid manner, their own political future.

Portugal remains thus firmly committed to contributing to the ongoing efforts under the auspices of the Secretary-General, hoping that, in a gradual but steady manner, the aforesaid gap will be bridged, allowing for legality to be finally restored in East Timor and bringing to its people the long-awaited peace and justice they are entitled to.

Unfortunately, I am forced to make an up-dated addition to my prepared statement. During these past hours, very disturbing reports have reached us concerning the occurrence of serious incidents in Dili, the capital of East Timor, prompted by several profanities committed against Catholic sacraments and acts of contempt for members of the Church attributed to Indonesian soldiers and security elements.

The situation in Dili is described as being very tense. A demonstration by hundreds of people was brutally repressed by the security forces and confirmed reports indicate that 300 students remain for several hours entrenched inside the University of Dili, surrounded by the Indonesian military, but left after negotiations carried out by the International Committee of the Red Cross and members of the local clergy. New demonstrations were announced for Friday.

My delegation wishes to put on record its strong protest of the acts of disrespect for the Catholic Church in East Timor and new serious attempts on the basic human rights and fundamental freedoms of the population of East Timor, as well as for the ruthless repression waged against those demonstrating against these actions.

It is said - though these reports are still unconfirmed - that three people were killed and 20 wounded as a result of the brutality of the security forces. It is imperative that violence be stopped, that the International Red Cross be granted due access to those wounded or eventually arrested, and that a thorough investigation be carried out of the profanities which were committed against the religion of the vast majority of East Timorese.

These incidents constitute a new demonstration that the situation in East Timor remains intolerable and that, unless its roots are addressed, it will not be substantially improved. We call on the Indonesian authorities to live up to their commitments, undertaken both before the Commission on Human Rights and the Secretary-General, to take prompt and decisive action to redress the human rights situation in the Territory, and to refrain from resort to further acts of repression. We appeal to the international community and the United Nations in particular to monitor closely the events in East Timor in order to avoid another human tragedy taking place in that Territory.

The Chairman *(interpretation from Spanish)*: I call on the representative of the Philippines.

Mr. Allarey (Philippines): Mr. Chairman, let me first thank you and, through you, the Committee for granting our request to speak in order to set the record straight regarding references made during the course of our meeting to a particular non-governmental organization conference held in the Philippines some six weeks ago.

In no way did the Philippine Government intend to prohibit a conference or discussions by a group of Filipinos in an academic setting - nor could it do so under the

Constitution of the Philippines - despite the effects that the discussions in question could have had on the livelihood of thousands of Filipinos. The freedom of Filipinos to assemble and express their opinions, as guaranteed by our Constitution, was fully exercised as the Conference in question proceeded as scheduled.

Nevertheless, the Philippine Government also had on this occasion no choice but to exercise its sovereign right to exclude non-Filipinos from entering the country when such entry was considered inimical to the national interest. In this regard, the Philippine Government cannot permit our country to be used by non-Filipinos as a platform and venue for political statements nor to engage in political activity in the Philippines against a friendly neighbouring country, or any other country for that matter.

Finally, we wish to make a comment on paragraph 36 of document A/AC.109/1187, the working paper prepared by the Secretariat. In this regard, we note that the source of this information was an article appearing in *Le Monde*. We had hoped that the Secretariat would have been more thorough in its research, rather than relying on a mere newspaper report. In this connection, the first sentence appears to convey the impression that all non-Filipinos were denied visas. As we heard yesterday, a number of non-Filipinos attended the said conference. It would therefore be more accurate if this sentence were amended to state that the Philippine Government on this occasion exercised its sovereign right to deny entry to the Philippines of some non-Filipinos.

We hope our comments can be taken into account and reflected in the verbatim records of this meeting in an appropriate manner.

Mr. Rai (Papua New Guinea): Yesterday, my delegation listened attentively to all petitioners in their submissions to this Committee. My delegation would now like to take this opportunity to make several observations.

First, we have taken note that, among the East Timorese speakers, two points of view have been expressed. Several speakers spoke on behalf of those citizens of East Timor who wish to integrate into the greater Republic of Indonesia, while one speaker spoke for self-determination and independence for East Timor. My delegation also noted that a majority of the speakers are parliamentarians from a number of European countries, including Portugal, or from non-governmental organizations based in Europe and America. Only one non-governmental organization is based in the Asia-Pacific region. From my country's experience, many non-governmental organizations purport to speak on behalf of peoples whose human rights are being abused either by their own country or an occupying Power.

In many instances, the motives and objectives of non-governmental organizations and individuals in promoting such issues are questionable. There are many examples to suggest that non-governmental organizations and individuals advanced themselves at the expense of peoples who are being marginalized. Therefore my delegation cannot take it for granted that all non-governmental organizations and individuals are speaking on behalf of East Timor.

Secondly, my delegation is concerned by the numerous allegations made by petitioners against the State of Indonesia on the infringement of fundamental human rights. My Government is a strong proponent of all aspects of human rights, and in view of those allegations, my delegation questions whether this is the right Committee to deliberate on matters of human-rights abuses.

The question of the decolonization of East Timor can be effectively considered by this Committee only with the full cooperation of Indonesia. My delegation has noted that country's strong objection to the question of East Timor's being discussed by this Committee as an issue of decolonization. The Republic of Indonesia does not see itself as an administering Power of a territorial people; it has stated that East Timor is an integral part of the State of Indonesia.

My delegation is placed in a somewhat difficult situation: to determine whether the question of East Timor is an issue of decolonization or of sovereignty. Therefore, we urge all members of the Committee to focus their attention on how to effectively address this issue, as the intransigence of the parties to the dispute will make this Committee's work more difficult.

It is my Government's considered view that all interested parties should be encouraged to make a more concerted effort to use the good offices of the United Nations to expedite the reaching of amicable agreements or understandings in order for this Committee to effectively address the question of East Timor.

Mr. Nasier (Indonesia): My delegation has consistently maintained that the people of East Timor have exercised their right to self-determination by opting for independence through integration with the Republic of Indonesia in 1976. We therefore oppose the granting of

hearings and the consideration of the so-called question of East Timor.

Furthermore, we firmly believe that the appropriate and only forum to seek an internationally acceptable solution is the ongoing tripartite dialogue held between Portugal and Indonesia under the auspices of the United Nations Secretary-General. To make this undertaking successful, Indonesia's detractors should refrain from two-faced posturing and extend their genuine support to the dialogue as a viable mechanism.

During the last round of talks held between the respective Foreign Ministers of Indonesia and Portugal in May 1994, it was agreed to exercise restraint in order to maintain an atmosphere conducive to further progress leading to a settlement of the question. The next meeting is scheduled to be held in January 1995. Meanwhile, talks will be held between the representatives of the two Governments in New York. It is our earnest hope that this next dialogue will lead to positive results.

Indonesia has resolutely demonstrated its good faith in these endeavours by extending full cooperation with the Secretary-General in exploring ways and means for a viable solution. In this regard, it is pertinent to note that a series of confidence-building measures was agreed on 17 September 1993 during a meeting held between the Foreign Ministers of Indonesia and Portugal which included, *inter alia*: the need to create a favourable and non-confrontational atmosphere in order to facilitate a settlement; the importance of promoting respect for human rights in all their indivisible aspects and fundamental freedoms in East Timor, and, in this context, the implementation of the recommendations contained in the consensus statement by the Chairman of the Commission on Human Rights of 4 March 1992; and the continuation of efforts to promote a balanced exchange of visits by journalists and personalities of their respective countries.

As indisputable proof of its goodwill in implementing the agreed confidence-building measures aimed at fostering an atmosphere propitious to addressing the substance of the question, Indonesia has taken some concrete steps. In this connection, I would like to briefly state some of them.

The Indonesian Government has continued to provide access to East Timor on a regular basis to foreign representatives, parliamentary missions, journalists and others. During the past year, visits were made possible to the province by the Secretary-General's representatives, Mr. Francese Vendrell and Mr. Tamrat Samuel. These included, from 19 to 23 January 1994, Mr. Manuel Tilman, an East Timorese lawyer; nine foreign correspondents; a delegation of 25 foreign journalists representing 16 print and electronic media organizations from various countries; and 26. East Timorese residing in Portugal. I am also pleased to report that the Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Executions, Mr. Bacre Wali Ndiaye, has concluded his visit to Indonesia, which included the province of East Timor.

Likewise, many international agencies are in operation in East Timor, including the International Committee of the Red Cross (ICRC), Catholic Relief Services (CRS) and the United Nations Children's Fund (UNICEF). These organizations continue to function freely in the province and are working closely and in cooperation with the provincial Government. For example, the ICRC continues its protection programme, which includes visiting prisoners such as Xanana Gusmão.

We are heartened by the establishment of the Portugal-Indonesia Friendship Association (PIFA) on 20 September 1993 and of its counterpart, the Indonesian-Portuguese Friendship Association (IPFA), on 17 January 1994, the main objective of which is to increase and strengthen the cultural and historical ties between the peoples of both countries.

It is most regrettable to note that some quarters continue to perpetuate the myth of a large Indonesian military presence in the province. Let me correct this baseless accusation and inform this Committee that since security and public order has vastly improved in the province, the East Timor Military Operation Command has been dissolved and replaced by a regular District Command, as in any other province of Indonesia. Furthermore, the remaining military forces have begun phasing out, from the earlier stationing of eight battalions to only two, and seven out of eight of them are involved in civic missions.

Since the incident of 12 November 1991, the Indonesian Government has exerted every effort to continue the search for missing persons, but with limited success. It is pertinent to note that our Foreign Minister continues to keep the United Nations Secretary-General apprised of the investigation. The number of those now unaccounted for has been reduced to 56.

There is complete freedom of cultural expression in East Timor. It is the established policy of Indonesia to

develop the cultural heritage of each ethnic group of the nation, including in East Timor, to maintain the rich cultural diversity of the Indonesian people. In this regard, the Indonesian Government is committed to preserving Portuguese relics in the province. A number of Catholic churches built by Portugal during its period of colonization have been renovated and restored by the East Timor Administration.

As to the expanded family reunion programme, 59 East Timorese have been granted permission to leave for Portugal. Also, on the basis of humanitarian considerations, seven East Timorese youths who tried last year to seek asylum in foreign embassies were allowed to leave for Portugal last December. In addition, Indonesia has approved requests from a number of East Timorese currently residing in Portugal and Angola to return to Indonesia. In a reconciliatory meeting in London, representatives of East Timorese in Indonesia and those living in Portugal met during December 1993 and agreed to further contacts. This should go a long way towards creating a positive impact on confidence-building measures.

Allow me also to set the historical record straight once again in response to some allegations and misrepresentations of facts made concerning the former colony. From the very beginning, Indonesia extended its cooperation to Portugal with the avowed aim of achieving the peaceful and orderly decolonization of East Timor. This was evidenced by a series of meetings held between the two sides in New York in September 1974, Lisbon in October 1974, London in March 1975, Jakarta in August and September 1975 and Rome in November 1975.

Tragically, before an agreement could be reached, the situation in the Territory was aggravated by the colonial Authority's abrupt abandonment of its responsibilities and its having handed over ammunition and weapons to one minority party. Thereafter, civil war erupted when that minority group unleashed a reign of terror against its own people and unilaterally declared independence. In response to the chaos and strife, the three other political parties, in line with General Assembly resolution 1541 (XV) voted overwhelmingly for independence through integration with Indonesia.

What Portugal has tried to do over the years is to project an image of helping the East Timorese people gain their independence. But this assistance comes 18 years too late. It should have been forthcoming much earlier. Decolonization took place in accordance with resolutions 1514 (XV), 1541 (XV) and 2625 (XXV), when the East Timorese exercised their right to self-determination and independence through integration.

As to the involvement of the United Nations, Principle IX (b) of resolution 1541 (XV) states in regard to integration that

> "The United Nations could, when it deems it necessary, supervise these processes." *(resolution 1541 (XV), annex)*

It is clear, therefore that the participation of the United Nations is not mandator. Yet throughout 1976 the provisional Government of East Timor spared no effort to try to involve the Organization in that process. Regrettably, all its invitations were accorded a negative response. Moreover, members of the Committee are well aware that many nations have gained their independence without resort to implementation of the provisions of resolution 1514 (XV). In fact, in some, the colonial Powers simply departed, often leaving the country in disarray; self-destructive civil wars continue to this day.

In East Timor, it is true that the process of decolonization was tumultuous owing to the hasty departure of the colonial Power and the attempt by one minority party to seize power by force of arms rather than through democratic methods. Nevertheless, there was a clear expression by four political parties representing the overwhelming majority of the population as to their real wishes for the kind of independence they desired, which was through integration with Indonesia. This brief chronology of events, which my delegation has reiterated on past occasions, shows that the Indonesian Government's only role was in responding to the expression of the true will of the people of East Timor.

It is indisputable that during the 18 years since integration with the Republic of Indonesia, the people of East Timor have achieved more substantial and tangible progress in all aspects of life than they did throughout the entire previous era. To bring the province of East Timor to the level of other provinces, the central Government allocated, and continues to allocate, a much larger per capita budget to East Timor than to any other province.

In this connection, let me note that the Government is allocating approximately 624 million rupiahs for a development project that involves 312 underdeveloped villages in the province. Priorities continue to be agriculture, education, public housing, communications and other infrastructures. The development efforts have as their

primary goals the improvement of the welfare of the people of East Timor; this has yielded most encouraging results. From a perennial shortfall, food production is now up by 600,000 tons per year. East Timor has now cut back its dependence on other Indonesian provinces, for example for the supply of rice. Of the province's 3,767 kilometres of roads, 1,716 kilometres have been asphalted. Telecommunications have been enhanced with the installation of repeaters to improve reception in the highlands. Likewise, a private radio station has been established. The steady expansion of the economy is reflected in increased domestic investment, which, at the end of the year 1993, amounted to 232.64 billion rupiahs.

In the educational arena, during the fiscal year 1993, 250 teachers were assigned to East Timor: 125 for elementary schools, 55 for junior high schools and 70 for senior high schools. These teachers will be given special training to meet the educational needs of the province.

Before concluding, I wish to inform the Special Committee that a recent religious procession in a church in Dili was disrupted by unauthorized members of the security forces. The authorities have taken prompt steps to redress the incident. In this regard, I would point out that the Commander of the East Timor district command has formally expressed regret and has apologized. The unauthorized military personnel are now in custody and will soon be brought to trial.

Based on the actual situation prevailing in East Timor today and on the fact that the province has been an integral part of the Republic of Indonesia for nearly two decades, my delegation sincerely hopes that this Committee will finally decide that the inclusion and discussion of the question of East Timor can serve no purpose. Let me also add that to support integration is to respect the aspirations of the people of East Timor; to be against it is to oppose the will of the East Timorese people and to thwart their right to political, economic and social development.

The Chairman: I call on the representative of Portugal.

Mr. Quartin Santos (Portugal): Our colleague from Indonesia said that Portugal is to be blamed for the failure to bring about the decolonization of East Timor. We have repeatedly stated our point of view on this, but I must stress that we have already recognized our share - I emphasize "share" - of responsibility for the failure in 1975 to achieve that goal. History will certainly judge our efforts and the facts that led to the disruption of the process we had envisaged. But I would like also to stress very firmly that we reject the allegation that we abandoned the Territory. In fact, the Portuguese authorities in East Timor remained there to the very last day, when the Territory was invaded on 7 December 1975. The Portuguese authorities have made every effort to bring the parties together and to redress the situation in East Timor so as to allow the decolonization process to continue and to be brought about.

I simply wanted to put that on the record.

The Chairman *(interpretation from Spanish)*: If there are no other speakers, the Committee will continue consideration of this item at its next session, subject to any directives which the General Assembly might give in that connection at its forty-ninth session.

Mr. Nasier (Indonesia): Before the Committee comes to a decision, Mr. Chairman, my delegation wishes to state that from the beginning it has opposed the inclusion of the question of East Timor on the Committee's agenda. We believe that the appropriate - indeed, the only - forum to seek a solution is the ongoing dialogue between Portugal and Indonesia, under the auspices of the Secretary-General. Therefore, my delegation objects to the recommendation before us, and requests that its position be duly reflected in the record.

Mr. Seniloli (Fiji): Could you explain your proposal once again, Mr. Chairman?

The Chairman *(interpretation from Spanish)*: I am suggesting that the Committee decide to continue consideration of this item at its next session, subject to any directives which the General Assembly might give in that connection at its forty-ninth session. The reservation expressed by Indonesia will be included in the records.

Does the Committee agree to my proposal?

It was so decided.

Report of the Subcommittee on Small Territories, Petitions, Information and Assistance *(continued)*

Questions of American Samoa, Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Guam, Montserrat, Tokelau, Turks and Caicos Islands and United States Virgin Islands (A/AC.109/L.1815)

The Chairman *(interpretation from Spanish)*: The Committee will recall that at its 1432nd meeting, on 11

July, the Committee approved an amendment introduced by Trinidad and Tobago to the ninth preambular paragraph of the general section of the consolidated draft resolution. I understand that the secretariat has circulated the amendment to members.

Mrs. Khan-Cummings (Trinidad and Tobago): I have had informal consultations with the Permanent Representative of Grenada and discussions with officials in my capital, Port-of-Spain, and my delegation now wishes to withdraw the second amendment proposed, to the third preambular paragraph of the ninth section of part B of the consolidated draft resolution, relating to the United States Virgin Islands, until some time in the future.

The Chairman *(interpretation from Spanish)*: The second amendment, proposed on 11 July, is withdrawn. May I take it that the Committee adopts the consolidated draft resolution, as orally amended, as a whole, without a vote?

Mr. Pursoo (Grenada): I do not wish to delay the Committee's work, but I had occasion to speak to the representative of one of the Territories listed in the consolidated draft resolution, which includes references to a number of conferences, and that representative regards the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks as being just as important as those listed, and would have liked to see it included. I do not know whether it is too late. I have not had the opportunity to discuss the matter with the representative of Trinidad and Tobago, because this appeal for the inclusion of that Conference was brought to my attention only very recently by the representative of one of those Territories.

Ms. Mackenna (Chile), Rapporteur of the Subcommittee on Small Territories, Petitions, Information and Assistance *(interpretation from Spanish)*: Unlike the other conferences mentioned - Agenda 21, the World Conference on Natural Disaster Reduction and the Barbados Conference - the Conference mentioned by the representative of Grenada is still being negotiated, so it is different in character from the others.

The Chairman *(interpretation from Spanish)*: Does the Ambassador of Grenada understand this?

Mr. Pursoo (Grenada): I do understand, Mr. Chairman, but I am not convinced that it cannot be mentioned, since we are dealing with follow-ups to Agenda 21. This is the danger when we begin to list these things.

I would have much preferred that we stay with a generic term and not begin to list these conferences because we always run the risk of leaving out one that seems important to one or two constituencies. However, I am not convinced that the reason for excluding this conference at this time is strong enough.

Mr. Nkounkou (Congo) *(interpretation from French)*: My delegation would be inclined to support the statement made by the representative of Chile, because the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks is indeed still going on and another session will begin on 15 August 1994, so we do not see why it should be included here.

As regards the International Conference on the Prevention of Natural Disasters and the Global Conference on the Sustainable Development of Small Island Developing States, those conferences were held very recently and the General Assembly has not yet ratified the programmes of action adopted at them. May those programmes be referred to nevertheless, in addition to Agenda 21? Perhaps the Secretariat could clarify this technical point.

Mr. Goel (India): I could not agree more with what the Permanent Representative of Grenada said in the first part of his statement regarding the danger of listing the various conferences and meetings by name, because there is always the danger of excluding something that might have relevance.

However, the point made by the representative of Chile is quite valid. Since we know that the negotiations on straddling fish stocks are still taking place - no agreed programme of action was adopted by that Conference, much less by the General Assembly - it would be a bit premature at this stage to speak of "bearing in mind" the plan of action of that Conference.

I would also associate myself with the point raised by the representative of Congo on the need to check with the Secretariat whether programmes of action may be referred to in a resolution before they have been adopted by the General Assembly. Apart from that, as I mentioned to one or two of my colleagues here, we have no difficulty with the programmes of action as such. Technically, though, it might be a good idea to clarify the matter.

The Chairman *(interpretation from Spanish)*: I would suggest that, taking into account what has been said here, the Special Committee hold consultations to seek an agreed

formula. We could return to this matter at a later meeting of the Committee and proceed now with our current work.

Mr. Bangali (Sierra Leone): Will those consultations deal with the proposal to include a reference to the Conference on Straddling Fish Stocks or with the statements made by the representatives of Chile and Congo?

The Chairman (*interpretation from Spanish*): The consultations will be among the members of the Committee, taking into account the statement made by the Permanent Representative of Grenada and the response of the Rapporteur, as well as what was said by the representatives of Congo and India. Alternatively, we could continue to discuss this matter now. But in the interests of keeping up with our agenda, I would suggest that, together with the Rapporteur and under the leadership of the Chairman of the Subcommittee, we try to come up with a formula acceptable to the members of the Committee.

I call on the Secretary of the Committee to respond to the question of whether reference can be made in a draft resolution to plans of action not yet adopted.

Mr. Abrous (Secretary of the Committee): I think this is just a technical matter. I understand that the Conference on straddling fish stocks is still taking place and that there is no programme of action, so negotiations are still going on. Whether you would want to preempt the conclusions and so on is really up to the Committee. But to answer on a technical point, that is the situation. I think this should not take too much of our time at this stage, since there is agreement on the main thrust of the draft resolution.

With reference to the question concerning plans of action adopted at two other conferences, I think that I will need some time to consult with my colleagues on this matter and then to bring the information to members' attention so that they can decide on the final formulation.

The Chairman *(interpretation from Spanish):* To sum up, the Committee will decide once it has the information from the Secretariat.

Question of Western Sahara (A/AC.109/1194)

The Chairman *(interpretation from Spanish):* The Committee has before it a working paper prepared by the Secretariat *(A/AC.109/1194)*.

In accordance with the request for hearing granted at our 1431st meeting on 11 July 1994, I now invite Mr. Boukhari Ahmed of the POLISARIO Front to take a place at the petitioners' table.

At the invitation of the Chairman, Mr. Boukhari Ahmed (POLISARIO Front) took a place at the petitioners' table.

The Chairman *(interpretation from Spanish):* I call on Mr. Ahmed.

Mr. Ahmed *(interpretation from Spanish):* On behalf of the POLISARIO Front, I should like to thank you, Sir, and the members of the Special Committee for the opportunity to participate in this meeting and to report on developments in the Western Sahara, a Territory which Morocco has illegally occupied since 1975.

As is well known, the United Nations, in cooperation with the Organization of African Unity (OAU), developed a Settlement Plan with the agreement of both parties - Morocco and the POLISARIO Front - aimed at holding a referendum on self-determination to allow the Sahraoui people to choose between independence and integration with Morocco. It was evident that this choice, which includes the option of annexation by the Power whose military forces invaded the Territory being decolonized, was unprecedented in the history of decolonization in the context of General Assembly resolution 1514 (XV).

The self-determination referendum was in principle to be held free of any military or administrative coercion and in conformity with United Nations resolution 40/50 and resolution 104 of the Organization of African Unity (OAU). Nevertheless, Morocco managed to secure from the United Nations the right to maintain 65,000 troops, as well as its administration and police force, during the future transitional period, together with tens of thousands of settlers who have been transferred to the Territory. The overall Moroccan presence during the referendum will thus be in the region of nearly 500,000 people, while the Sahraoui population entitled to exercise its right to vote was estimated, according to the Plan, at about 80,000 people.

Certainly, these were not ideal conditions for organizing a free and fair referendum. Nevertheless, the POLISARIO Front made those concessions out of a spirit of cooperation with the efforts of the United Nations and the OAU. As is known, the self-determination referendum was to have taken place in January 1992 following the entry into force of the cease-fire in September 1991. No sooner had the settlement plan begun to be implemented than the occupying Power demanded of the United Nations a

unilateral modification allowing Moroccan populations to participate in the referendum and, by patent fraud, to legitimize the military occupation of the Territory.

That was the root cause of the deterioration in the process of peaceful solution painstakingly developed to bring an end to a long and anachronistic decolonization conflict which is a thorn in the side of Africa and an affront to the principles of the United Nations Charter. This deterioration continues to this day.

In February 1993, at a time when Morocco was a member of the Security Council, the Secretary-General submitted three options - A, B and C - to the Council. By resolution 809 (1993), the Council selected the first. The latter two provided, respectively, for a unilateral referendum organized solely with the participation of the occupying Power, or simply an abandonment of the peace Plan and hence of the efforts made by the international community. Resolution 809 (1993) set out two parallel courses of action. On the one hand, the identification and registration of Sahraoui voters whose names appeared on the 1974 census of the Spanish authorities was to begin. On the other, the Secretary-General was invited to intensify his efforts to resolve the differences over the identification criteria introduced in 1991 at the behest of Morocco. The Government of the occupying Power forestalled the implementation of that resolution by not allowing the identification and registration of voters from the 1974 census to begin.

At the beginning of June 1993, the Secretary-General, Mr. Boutros Boutros-Ghali, toured the region and delivered to the two parties what was called a compromise proposal to resolve the differences to which I have just referred. The POLISARIO Front, although aware that this proposal was based fundamentally on the viewpoint of the occupying Power, did not oppose it but called for certain partial amendments of its content to make it more balanced and impartial. That request was never honoured.

A month later, in July 1993, as I informed the session of the Special Committee which was then taking place, the beginnings of a direct dialogue between the parties was to take place in Laayoune, the occupied capital of Western Sahara.

It was a first step. The POLISARIO Front came to Laayoune, prompted by a spirit of good faith and a desire to take up and solve present and future problems that might stand in the way of peace and to create a climate propitious for the self-determination referendum.

The Security Council, in a letter of its President dated 4 August 1993 *(S/26239)*, viewed the initiation of a dialogue between the two parties as a positive development and encouraged the talks to resume.

The United Nations invited the two parties to a second round of talks, which was to take place in New York on 26 October 1993. However, the Moroccan Government declined to appear because for that Government, according to a letter, which was made public, from its Minister of External Affairs addressed to the Secretary-General, the direct dialogue was of concern only

> "to Sahraouis of one place or another who are to discuss the future of the Sahara as an integral part of the Kingdom of Morocco".

That was the event - described by some members of the Security Council as a provocation - which led to the cancellation of the second round of talks.

In March of this year, the Secretary-General submitted a report to the Security Council *(S/1994/283 and Add.1)*, in which he proposed three options. Under option A, the Secretary-General proposed a unilateral referendum. Option C provided for abandoning the peace plan and withdrawing MINURSO from Western Sahara.

The Security Council favoured option B, and in resolution 907 (1994) requested the Secretary-General to report to it, not later than 15 July 1994 on progress achieved in the work of the Identification Commission - on which the referendum's credibility will largely depend, since the occupying Power is seeking to have the Moroccan population participate in it - and on other relevant aspects of the Settlement Plan in order to clarify and resolve them and thus avoid new obstructions to the peace process. The most serious of these relates to the Plan's silence on the post-referendum phase. This gap in the plan opens the door to a recurrence of events such as those that occurred in Angola.

Following the adoption of resolution 907 (1994), the POLISARIO Front provided yet further proof of its desire to cooperate with the decolonization mission of the United Nations and spared no political effort so that this peace process, so gravely impaired by the Moroccan Government's deliberate obstruction, could be kept alive and reach a successful conclusion for the sake of peace and stability in the region.

The POLISARIO Front cooperated, and is cooperating, fully with the implementation of Security Council resolution 907 (1994). Pursuant to that resolution, the process of identification of Sahraouis entitled to participate in the referendum was to have begun in early June of this year.

To that end, MINURSO had requested the Moroccan Government and POLISARIO Front, first, to designate their official observers; secondly, to designate the eminent persons entitled to give oral testimony before the Identification Commission; and thirdly to accept the legal status granted by the United Nations to the observers of the Organization of African Unity (OAU), who, as provided by the Settlement Plan, would be participating in the work of the Identification Commission. The POLISARIO Front responded promptly and favourably to those requests.

Nevertheless, due to the official and public veto which the Government of the occupying Power interposes against the participation of the OAU and its observers, it has not yet been possible for the identification process to get under way. It is evident that we are faced with another unjustified obstruction of this Settlement Plan, interposed by the Moroccan Government at a critical moment for the continuation of the peace process.

At this point, I wish to provide the Committee with some of the factual elements which show that the present inertia is a result of deliberate action.

On 28 May 1993, the Special Representative of the Secretary-General sent a note to the Permanent Representative of the Republic of Senegal to the United Nations, who was President of the OAU during that year. It read:

> "In the light of the preparations under way by the Identification Commission pursuant to Security Council resolution 809 (1993) and bearing in mind the provisions of the Settlement Plan concerning the involvement of the OAU in the overall process of implementing the Settlement Plan, the Special Representative would be grateful to the Permanent Representative if he would kindly transmit to the President of Senegal, His Excellency Mr. Abdou Diouf, in his capacity as Acting President of the OAU, his invitation to designate two representatives for an initial period to observe, in the capacity of official observers of the OAU, the work of the Identification Commission in the mission area."

On 3 August 1993, the Executive Secretary of the OAU at the United Nations transmitted a note in reply to the Special Representative of the Secretary-General for the Western Sahara, in which he said:

> "I have the honour to inform you, in connection with your letter of 28 May 1993, and upon instructions from the President of the OAU, that the following officials of the OAU ... have been designated as official observers of the work of the Identification Commission."

Two days later, on 5 August 1993, the Special Representative of the Secretary-General sent a note acknowledging receipt, in which he said:

> "I have the honour to acknowledge receipt of your note verbale of 3 August 1993 in which you report the appointment of the two official OAU observers for the work of the Identification Commission".

On 2 and 8 June 1994, following the adoption of Security Council resolution 907 (1994), MINURSO sent notes to the Government of Morocco and the POLISARIO Front informing them that:

> "... observers from the Organization of African Unity designated in August 1993 by the Executive Secretary, upon instructions from the Acting Chairman of the OAU, have been invited to observe the work of the Commission, in keeping with the relevant provisions of the Settlement Plan. In the exercise of their functions with the Identification Commission, and bearing in mind the fact that the Settlement Plan is being carried out by the United Nations in cooperation with the OAU, said observers will be considered by the Organization as experts on mission for the United Nations, within the meaning of articles 6 and 7 of the Convention on the Privileges and Immunities of the United Nations. In this context, the POLISARIO Front is requested to confirm its agreement on the status of the OAU observers".

On 11 June 1994 the POLISARIO Front, by a note verbale, communicated to MINURSO its

> "approval and acceptance of the status given the observers from the Organization of African Unity (OAU) invited to observe the work of the Identification Commission in keeping with the relevant provisions of the settlement plan".

On 14 June 1994, a release by the official Moroccan news agency (MAP) announced that

> "Mr. Abdellatif Filali, Prime Minister and Minister for Foreign Affairs and Cooperation, has informed the Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali, that Morocco rejects the designation of the two representatives of the Organization of African Unity to monitor the work of the Identification Commission in the Sahara".

On 15 June 1994, MINURSO officially informed the POLISARIO Front that there was a delay in the process of identification, since

> "being unable to proceed without the OAU observers we have no alternative but to postpone the beginning of identification for at least a day".

A month has passed, and the process remains paralysed.

Those official documents, made available by the Secretariat some three weeks ago to any interested delegation, enable us to understand the origin and causes of the new threat to the peace process.

Only a few days ago, on 6 July 1994, the Canadian daily *Le Devoir* wrote that

> "The process has been delayed *sine die* due to Morocco's opposition to the presence of observers from the Organization of African Unity. In diplomatic circles in New York it is said that Morocco has been systematically practising obstruction since 1991 in order to gain time and force the United Nations to abandon the referendum".

The peace process in Western Sahara is bogged down, and every day it becomes clearer which party has been obstructing, and continues to obstruct, the efforts and the determination of the international community to bring an end to a long-standing decolonization problem, the persistence of which is depriving a people of its legitimate rights, threatening peace and stability in the region, and seriously compromising the credibility of the United Nations and its capacity to carry out its decolonization mandate.

The petitioner withdrew.

The Chairman *(interpretation from Spanish):* Taking into account developments in the situation in Western Sahara, and subject to any directives which the General Assembly might give in this regard at its forty-ninth session, and so as to facilitate the Fourth Committee's consideration of the item, I propose that the Special Committee decide to transmit to the General Assembly all the related documentation on this item.

It was so decided.

The Chairman *(interpretation from Spanish):* The Special Committee has thus concluded its consideration of this agenda item.

Special Committee decision of 15 August 1991 concerning Puerto Rico

Requests for hearing

The Chairman *(interpretation from Spanish):* As members will recall, the Special Committee, at its 1431st meeting, held on 11 July 1994, decided to hear representatives of organizations interested in this question. In that connection, members have before them a number of communications containing requests for hearing; these have been circulated in aide-mémoire 21/94. May I take it that the Committee agrees to grant those requests?

It was so decided.

The Chairman *(interpretation from Spanish):* More than a dozen organizations have requested to be heard by the Committee. In conformity with established practice, the Committee will hear only one representative from each organization. I suggest that, where possible, organizations sharing similar positions should suggest one person to speak on their behalf. I also appeal to speakers to be as brief as possible in order to give all petitioners the opportunity to make their statements.

The first speaker on the list is Mr. Carlos Noriega Rodriguez of the Colegio de Abogados de Puerto Rico.

At the invitation of the Chairman, Mr. Carlos Noriega Rodriguez (Colegio de Abogados de Puerto Rico) took a place at the Committee's table.

The Chairman *(interpretation from Spanish):* I call on Mr. Noriega Rodriguez.

Mr. Noriega Rodriguez (Colegio de Abogados de Puerto Rico) *(interpretation from Spanish):* My name is Carlos Noriega Rodriguez, and I am President of the Colegio de Abogados de Puerto Rico: the Puerto Rican Bar

Association. This is the second time during my presidency that I have appeared before this Committee to discuss the problem of the colonialism my country has endured for the past 500 years.

The Puerto Rican Bar Association is the nation's oldest professional organization; it has served the country since 1840 and has had a long and honourable history. Its nearly 9,000 members constitute a pluralistic, heterogeneous organization encompassing diverse ideologies. Hence, the Colegio's resolutions and agreements respect that pluralism, and I must state that not all of our 9,000 members necessarily share the same views on this difficult, fundamental issue.

Since 1977 representatives of our organization have come before this Committee every year to submit reports and resolutions based on studies of Puerto Rico's constitutional development and of the legal and political relationship between Puerto Rico and the United States of America.

Our obligation to respond with a frankness born of our deep conviction that we live in a stifling colonial environment led me to conclude my statement last year by noting that 500 years of colonialism is a lot of colonialism. It is colonialism taken to an extreme. It is colonialism that degrades human beings, degrades everyone born in our country, with respect to every aspect of their dignity as a people, of the universal right to self-respect and of the obligation to respect others.

One has only to look at our people and their institutions to realize that Puerto Ricans are clearly divided in every way. The degrading colonialism suffered by the country has sapped our spirit at the very roots. Therefore, the Bar Association, of which I have the honour to be President, must continue to come before this international body year after year, as it has for the past 20 years, to protest about the terrible condition of being the largest colony of the most powerful country in the world. The United States Government has the moral responsibility before history to put an end to the degrading situation in which our people live, before the astonished eyes of the other free countries of America and the world.

Last year we pointed out that the Government that took power in Puerto Rico after the last elections had announced that a plebiscite would be held to resolve the problem of Puerto Rico's political status. We said then that the Governor had signed a law providing for the holding of a plebiscite on Puerto Rico's political status, to be held on 14 November 1993, when the voters could choose between the traditional status formulas, set out on the ballot paper in the following order: statehood, commonwealth status and independence. That plebiscite was held. We must record that the President of the United States, William H. Clinton, promised before the vote on the law establishing the plebiscite that he would support the decision of the Puerto Rican people, whatever it was. The President of the United States has not honoured that commitment.

Although 70 per cent of the registered voters took part in the plebiscite - which, incidentally, had none of the guarantees provided for in international law, because it contained none of the safeguards for the exercise of self-determination provided for by the United Nations - none of the proposed formulas succeeded in receiving an absolute majority.

Commonwealth, the political formula under which Puerto Ricans have lived since 1952, obtained 49 per cent; federated statehood obtained 47 per cent; and independence received 4 per cent. Despite the problems, the result of the vote revealed that the annexation formula proposed by the leaders of the New Progressive Party was not welcomed by the people. Governor Pedro Rosselló had said publicly that if that formula won, even if by only one vote, he would go to Washington to demand statehood for Puerto Rico.

The fact is that the United States Government has done absolutely nothing about the result of the so-called consultative plebiscite. It continues to close its eyes to it and to turn its back on the just claims of a people that has been suffering and living in the shame of colonialism, by which it continues to feel humiliated before the world and by the world.

I do not believe that it is necessary to repeat here for the nth time what we have been saying for so many years: identify the main needs and minimum processes that support the right of all peoples to demand self-determination. We have repeated it *ad nauseam*; we have said it to the point of boredom and beyond.

The United Nations, through the decolonization Committee, with the support of the General Assembly, as well as the Bar Association of Puerto Rico, has recognized that Puerto Rico has never been able to exercise its right to self-determination and that the United States Government has an obligation to create the right atmosphere for the full exercise of that right by the Puerto Rican people.

We said at the last session that the United States Government had failed to listen to the legitimate demands of our people to put an end to the nightmare of colonialism. There are many reasons for this indifference. The situation should be described by its proper name; it is really a conspiracy involving various branches of Government. I told this international body at the last session:

> "This obstacle is due in large part to the enormous pressure brought to bear by the United States Government. Also contributing to the growth of that dense web of impediments are the conflicting opinions and actions of various branches of the United States Government, such as the divergent and contradictory opinions of its own courts. In the recent case of United States versus Sánchez, 992 F2d 1143, decided on 4 June this year, the Eleventh Federal Circuit Court of Appeals of the United States ruled that the United States Congress can unilaterally revoke or derogate the Constitution of the commonwealth or the statute that governs relations between Puerto Rico and the United States. In its analysis it concludes that Puerto Rico remains a Territory of the United States of America.
>
> "The Court says that neither the Federal Relations Law nor the establishment of the Constitution of the commonwealth changed the nature of the constitutional status of Puerto Rico as a Territory; nor did they change the source of authority over Puerto Rico. The United States Congress remains the source of ultimate authority over Puerto Rico under the terms of the Territorial Clause of the United States Constitution. This authority, says the Eleventh Circuit Court of Appeals, includes the ability to revoke unilaterally the Constitution of Puerto Rico or the Federal Relations Law and replace it with any law or regulation of its choice." *(A/AC.109/PV.1422, pp.26-27)*

Under constitutional law, Puerto Rico is living in a limbo of legal identity.

What is clear from the ruling of the Eleventh Federal Circuit Court of Appeals in the Sánchez case is that the colonial status that we have had for five centuries continues to be what it was before the adoption of General Assembly resolution 748 (VIII).

In our last intervention we said that under Article 96 of the United Nations Charter the General Assembly may request advisory opinions of the International Court of Justice in The Hague on matters of international law requiring clarification. On a number of occasions the General Assembly has requested the International Court of Justice to submit advisory opinions on colonial problems that have given rise to conflicts between States and the United Nations. The opinions handed down by the Court have been of great help in the search for harmonious solutions to difficult cases.

Today we wish to stress that the specialized agencies of the United Nations can review legal issues under the competence of the International Court of Justice. General Assembly resolution 3232 (XXIX) of 12 November 1974,

> "Recommends that United Nations organs and the specialized agencies should, from time to time, review legal questions within the competence of the International Court of Justice that have arisen or will arise during their activities and should study the advisability of referring them to the Court for an advisory opinion, provided that they are duly authorized to do so". *(resolution 3232 (XXIX), para. 5)*

We made the request, on that occasion, that the Special Committee recommend to the General Assembly that an advisory opinion be sought from the International Court of Justice at the Hague. Today, exactly one year after our appearance here, we repeat this request. Puerto Rico cannot continue to be a colony in its own eves or in the eyes of the world. Not only is it degrading, it is shameful - and particularly shameful for those who wield the greatest power in this cycle of human history.

It must be recognized that Puerto Rico is a nation, a nation with its own character, language, customs, literature and traditions: a nation that wishes to restore its dignity and its respect before the world.

Puerto Rico is not a thing; it is not a piece of land where the toxic waste of the North American nation can indiscriminately be thrown, or where the Navy of the most powerful nation in the universe can take target practice over the heads of Puerto Ricans without the making the slightest reparation for the damage thus caused to the environment and the right of every citizen to live in peace and tranquility in the land where he or she was born. Puerto Rico is not a property to be bought and sold on the open market. Puerto Rico is a unique moral entity.

In this forum of free peoples, the Puerto Rican Bar Association requests that the Puerto Rican people not be allowed to awaken at the dawn of a new century without

having broken the chains of colonialism in our land, chains of indignity and outrage.

Mr. Noriega Rodríguez withdrew.

At the invitation of the Chairman, Mr. Fernando Martín (Puerto Rican Independence Party) took a place at the Committee table.

The Chairman *(interpretation from Spain)*: I call on Mr. Martín.

Mr. Martín *(interpretation from Spanish)*: My name is Fernando Martín. I am the Vice-President of the Puerto Rican Independence Party, and I am appearing here on behalf of that group.

First of all, may I congratulate the Committee for having agreed to hold this hearing today on the subject of Puerto Rico, a decision which, at the very least, presupposes the validity of the jurisdiction of this Committee in the case of Puerto Rico.

It is my primary obligation to inform this Committee of the developments with regard to the political status of Puerto Rico that have occurred since 1993, when this Committee last had an occasion to hear petitioners from Puerto Rico.

The most significant political event during this period was certainly the holding of the alleged plebiscite at the initiative of the local Government of Puerto Rico in November of last year. I call this the "alleged plebiscite" because everyone agrees that it was an event which lacked judicial meaning. It had no binding legal effect under the local law of Puerto Rico or the Federal law of the United States, and even less under international law.

However, despite that glaring limitation and the other shortcomings of the process - which was hardly a paradigm of international law pertaining to an act of free expression by a people - no one, least of all myself, has any doubt that it was an event of a political nature, a political initiative, that might well contribute to the goal of those of us who are in favour of the full decolonization of Puerto Rico. That goal is to prompt the Congress of the United States to intervene in the matter of the colonial status of Puerto Rico and to become a collaborator in finding a solution, as opposed to its historic role as the main obstacle.

Therefore, in evaluating the past year's relevant political events with regard to the status of Puerto Rico, we have to examine the plebiscite consequences, implications and prospects.

The Puerto Rican Independence Party decided to participate enthusiastically in this process because we were convinced that it would serve to dramatize the problem of Puerto Rico to the United States Congress. Our participation had two important results. The first was to ensure that neither the annexationist forces nor those representing the present colonial status could obtain an absolute majority in the plebescite or would be able to claim, even for public relations purposes, that the majority of Puerto Ricans had already decided in favour of annexation or of continuing with colonialism.

The second result of our participation, which, in my opinion, will eventually prove no less important, was to oblige the forces which today control the Popular Party - the party that has virtually maintained colonialism in Puerto Rico - to try to enhance the Party's public appeal by ambiguously redefining "commonwealth" status so as to include a timid claim for sovereignty.

I have no doubt that if we Independents had not participated in and challenged this process, the definition of commonwealth status and its aspirations would have been much more conservative and thus less likely, in future negotiations with the United States, to bridge differences over the country's political development.

Thus, in my opinion, these two results at the very least served as a stimulus to the independence movement, which participated in this process.

The consequences of the plebiscite are well known. First, annexationism was defeated at a time when all conditions were conducive to its triumph. The Government in power supported annexation, counting upon stronger economic resources and the fact that foreigners had the right to vote in Puerto Rico. In other words, conditions were optimal for annexation to triumph in the referendum.

But annexation was not approved, which brought a twofold reaction from the United States Congress. On the one hand, there was a feeling of great satisfaction, serenity and relief that the United States Congress did not have to face a crisis of confrontation with its colony, at a time when it was considering other alternatives to annexation, which it fears. But the feeling of relief also created conditions adverse to keeping the subject of Puerto Rico "hot" in Congress, demonstrating that the United States'

lack of interest in annexation had become an obstacle to generating impetus on the case of Puerto Rico.

On the other hand, the other dramatic result was that the forces which support the Commonwealth status - that is the present colonial status - were unable to obtain an electoral majority of over 50 per cent. That fact has meaning which goes beyond statistics, because, as all members of this Committee know very well, the argument which has been historically put forward by the United States, here and in the General Assembly - in 1953, when it obtained the adoption of resolution 753 (VIII), and throughout the years - is that while a Commonwealth was subordinate politically to the United States, it was also clear to the North Americans that the political status also enjoyed the majority support of the Puerto Rican people.

The referendum of November 1993, beyond the clear limitations we have described, makes it dramatically clear that, if at a given time anyone could have used the argument - spuriously, in my opinion - that the consent of the majority somehow justified the political subordination of the colonized, the result of the referendum demonstrates that even this alleged consent does not exist. Therefore, the basis of the defence which has been historically given to the Commonwealth status - that despite the difficulties it had the support of the majority - can no longer be sustained. The United States Congress is thus faced with a situation in which support for annexation does not enjoy a majority in Puerto Rico, which has given a certain relief. But it is also faced with the embarrassing fact that the current colonial situation cannot be claimed to enjoy the majority support of the people.

Unfortunately, these facts alone are not going to lead to a dynamic that will make Puerto Rico irreversibly and fully decolonized until all the internal and external forces that are committed to the principle of decolonization are effective and efficient in promoting the discussion of this issue in the United States Congress. To date, the United States Government's reaction to the plebiscite results has been as follows.

The President of the United States has appointed an inter-agency working group composed of a special assistant of the President and a leader of the House Subcommittee on Territorial Affairs who is very familiar with the Puerto Rican question. The President has charged them with formulating, proposing or recommending a public policy for the United States *vis-à-vis* Puerto Rico in the light of the results of the plebiscite. That working group is just beginning its work. It is my hope that, next year, this Committee will produce work which will establish a new scenario for discussion, negotiations and dialogue in the relationship between the United States and Puerto Rico.

If that comes about - and to a great extent it will depend on the ability of Puerto Ricans involved in decolonization to stimulate this process - in the fall of next year this Committee will certainly have a framework allowing it not only to deliberate the position of the petitioners, but also comprehensively to review the question of Puerto Rico with the aim of reaching a decision enjoying the consensus of the members of the Committee.

Meanwhile, the Committee's decision to convene hearings today is keeping the door open and is a sign that the Special Committee maintains the case of Puerto Rico on its agenda. We would therefore like to thank members once again for that decision, which is a reaffirmation of this Committee's jurisdiction on the question of Puerto Rico. I hope that there will be a better working climate next year and that I have been informative on this subject.

Mr. Martín withdrew.

At the invitation of the Chairman, Mr. Ronald Fernandez (Justice for Puerto Rico) took a place at the Committee table.

The Chairman *(interpretation from Spanish):* I call on Mr. Fernandez.

Mr. Fernandez: My name is Dr. Ronald Fernandez. I am a United States citizen of Spanish ancestry and I represent an organization of North Americans called Justice for Puerto Rico.

Like many of the women and men you have already heard or will hear, I have spoken before this Committee on numerous occasions. So, in preparing these remarks, I tried to think of a way to get members' attention. What, after 30 years, have they not heard? What could I say that might help move the Committee finally to take decisive action, not only in relation to Puerto Rico, but to the literally torturous plight of the 17 Puerto Rican political prisoners now held in United States prisons.

I thought of using facts. So members will see that attached to my statement is a document from the archives of President Richard Nixon. In it Senator Henry Jackson, speaking in April of 1974, matter-of-factly indicates that Puerto Rico became part of the United States "by an act of conquest" and that, instead of independence or statehood,

Puerto Rico - and the words are those of Senator Jackson - "must remain a colony".

The facts are both interesting and essential. But they do not seem to make any difference. For far too many years, many of the petitioners have brought a wealth of irrefutable documents to the Committee's attention but, pitted against the political and economic power wielded by United States officials, the truth is a weak tool in the hands of even the most able speaker. As former United States Ambassador to the United Nations Arthur Goldberg noted as long ago as 1968, the Committee of 24 was such a "troublesome Committee" that Washington "pulls out all the stops" whenever the truth threatens to produce meaningful action.

So, given the weakness of even White House documentary proof, I wish to appeal to your sense of repugnance. And, in order hopefully to elicit a sense of revulsion about United States policy, please listen to this summary of a 5 October 1993 hearing before the Subcommittee on Western Affairs of the United States House of Representatives.

The first speaker was United States Congressman Jose Serrano. Eloquently, and with passion, Congressman Serrano explained to his colleagues that Puerto Rico was a United States colony. He said that he hated to admit it and that it was sometimes hard to represent himself as a Democrat when he and his colleagues controlled the world's oldest colony, but Congressman Serrano is an honest man. Thus, he repeated it two or three times: In October of 1993 Puerto Rico was a United States colony.

In response to Serrano's remarks, his colleagues yawned. No one was disrespectful - Congressman Serrano was, after all, one of their own - but, as if he had predicted the slight possibility of rain, Jose Serrano's remarks made no one sit up and take notice. On the contrary, it seemed to strike none of the members as abhorrent that the United States, which ceaselessly broadcasts its worldwide support for democracy, also owned a colony which was originally modeled after British imperial policy.

After Congressman Serrano, three members of Puerto Rico's three major political parties also took the floor. Once again the Committee heard that Puerto Rico was a colony, and once again this was matter-of-factly accepted. No one wanted to recall the 1901 words of then-United States Supreme Court Justice Harlan:

> "the idea that this country may acquire territories anywhere on Earth, by conquest or treaty, and hold them as mere colonies or provinces (...) is wholly inconsistent with the spirit and genius as well as the words of the United States Constitution."

The leaders of the Government of the United States of America are guilty of supreme hypocrisy and of a political immorality that was best expressed by General Frank McIntyre, head of the War Department Bureau that governed Puerto Rico until 1934. In the noted periodical *Foreign Affairs*, Mr. McIntyre said this:

> "An island or a small group of islands acquired primarily for naval purposes does not differ greatly from a war vessel or fleet at anchor."

Over the past 10 years I have visited close to a dozen United States Government libraries. I have read many thousands of pages of documentary evidence, and I am arguing that General McIntyre's callousness symbolizes a twentieth-century constant. In Congress and in the White House, Puerto Ricans are not people. They are things, political possessions who, to American policy makers, do not greatly differ from a war vessel or fleet at anchor.

That is a hideous notion; and it is also as un-American as an absence of checks and balances. But since United States officials have worn this colonial crown for nearly a century, I do not believe they will remove it unless bodies such as this Committee expose United States hypocrisy to the bright light of world opinion.

These are my specific requests: Ask President Clinton to have a call-in television show about Senator Jackson's statement. Ask Secretary of the Treasury Bentsen to explain why United States companies that operate in Puerto Rico are called "possessions corporations". Ask Secretary of the Interior Babbitt to explain why it is acceptable for soldiers to drop napalm - as they did in November 1993 - on the heavily inhabited Puerto Rican island of Vieques.

And most important of all, ask Attorney General Reno to begin the process of decolonization by immediately requesting an unconditional amnesty for the 17 Puerto Rican political prisoners and for the numerous Puerto Rican revolutionaries living in clandestinity.

Revolution is a word we do not like to hear. But I believe United States policy in Puerto Rico is so outrageous it is criminal to deny Puerto Ricans their inalienable right to even violent social change. As Thomas Jefferson noted

on 4 July 1776, when confronted with a long train of colonial abuses and usurpations, it is not only a citizen's right, it is a citizen's duty to throw off such a Government.

Members of the Committee, carry out Jefferson's work, please, in a peaceful fashion. Throw off Puerto Rico's colonial yoke because, as we speak this morning, United Nations guides are telling visitors in the hallways behind this Chamber a terrible truth: Colonialism is a crime against humanity. Thus, my plea is that you put Puerto Rico on the walls of the United Nations and next year allow guides to boast of the wonderful strength shown by this exceedingly important Committee.

Mr. Fernández withdrew.

At the invitation of the Chairman, Mrs. Gilda Camargo (National Lawyers Guild) took a place at the Committee table.

The Chairman *(interpretation from Spanish):* I call on Mrs. Camargo.

Mrs. Camargo *(interpretation from Spanish)*: The National Lawyers Guild and its Puerto Rico Subcommittee are grateful for this opportunity once more to appear and state our position in relation to the inalienable right of the people of Puerto Rico to their independence from the colonial chains that tie them to the United States.

The National Lawyers Guild is composed of over 10,000 members, including jurists, students and legal assistants who offer their services for the promotion of social justice and human rights. For over three decades, we have represented activists of the Puerto Rican *independentista* movement and all Puerto Ricans who have advocated the liberation of their country, including the members of the Armed Forces of National Liberation and the Boricuan Popular Army, better known as the Macheteros. We have worked in conjunction with Puerto Rican lawyers to combat the illegal colonization of Puerto Rico, presenting legal arguments in national and international forums to support the liberation of this country.

We find ourselves addressing this Committee barely six years from the year 2000. We take note of the fact that the United States remains in a status of illegal disrespect for the rights of the Puerto Rican people and in violation of the Charter of the United Nations, the resolutions of the General Assembly, this venerable Committee, and the mandates approved by the international community in relation to the elimination of colonialism.

In 1998, the United States will attain 100 years of colonial imposition over Puerto Rico. During each one of those years, the United States confronted opposition on the part of the people of Puerto Rico to its military presence; the imposition of the English language; its cultural colonization and the illegal exploitation of its resources. Not even after 96 years of hostility and oppression; not even after violating the human, civil and political rights of the people; not even after dividing the Puerto Rican family and attempting to create divisions between the Puerto Ricans living on the island and those in the United States, has the imperialist country from the north had the power to break the ties of resistance to its colonialism.

The General Assembly of the United Nations declared the decade of 1990-2000 as the International Decade for the Eradication of Colonialism, affirming that the principal objective of this decade will be the exercise of self-determination on the part of all peoples. In 1993 the Assembly exhorted the administering Powers to take the necessary measures to allow the peoples of the colonized territories to exercise without delay their rights to self-determination and independence on a permanent basis. We have yet to see the United States comply with these mandates.

Under the United States, which determines the laws, economy and immigration of Puerto Rico, today about 64 per cent of the Puerto Rican people live below the poverty line; over 100,000 are homeless; 1,350,000 have inadequate housing; 25 per cent are unemployed; crime and delinquency are strongly connected to drug trafficking; and 35 per cent of the female population is sterilized.

This demonstrates that a policy of extermination of the Puerto Rican population is being practised by the colonial Government. If we add to this the fact that many of the activists of the *independentista* movement are in United States prisons, far from Puerto Rico and in conditions that violate the Universal Declaration on Human Rights and the United Nations minimum standards for the treatment of prisoners, we conclude that the United States is acting with impunity in relation to this Organization's directives for decolonization. In the face of this impunity, the National Lawyers Guild recommends that the case of Puerto Rico be presented to the International Court of Justice for an advisory opinion with respect to the illegality of the United States actions. The United States must be directed to release unconditionally all Puerto Rican political prisoners

and prisoners of war, most of whom have served more than 15 years in custody for their unbending commitment to self-determination.

We find it ironic that President Clinton, like previous Presidents of the United States, should maintain an illogical and illegal embargo against the people of Cuba on the pretext that there are political prisoners in Cuba while in the United States activists of the Puerto Rican *independentista* movement are imprisoned without even a recognition of their status as political prisoners and prisoners of war. By what right, then, and with what moral authority, can the United States speak of the inalienable right to self-determination when it comes to nations such as Latvia, while not permitting a plebiscite under United Nations supervision for the self-determination of Puerto Rico and will not cease its persecution and spying against the members of the *independentista* movement of Puerto Rico? The actions of the Government of the United States, which violate the Covenant on Civil and Political Rights, exacerbate the continuing illegality of the process of colonization against Puerto Rico.

Since 1980, the United States has held in its prisons women and men who have dedicated their lives to the freedom of their people. The United States, itself born of an anti-colonial struggle, has rewarded them with disproportionately lengthy sentences and cruel, inhuman and degrading treatment. A recent application for parole by one of the prisoners who had served 14 years of a 78-year sentence was not merely denied: he was ordered to serve an additional 15 years in prison, but with no promise of parole even then. A Puerto-Rico-based campaign has asked the President of the United States to grant the prisoners immediate and unconditional release.

Without doubt, the people of Puerto Rico will continue its legitimate struggle for its liberation. It is for this Committee and all the friends of the people of Puerto Rico around the world to provide the assistance needed to enable Puerto Rico to be free from the colonial domination of the United States.

The meeting rose at 12.45 p.m.